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SBH timely filed a Petition to Deny that application in which it argued, *inter alia*, that because the assets of WHCT-TV had either been foreclosed upon or transferred out of the licensee's estate, the Trustee holds a bare license. Petitioner further asserted that despite Astroline's representations to the Commission otherwise, it did not qualify as a minority-controlled entity for the purpose of the minority distress sale policy. Lastly, SBH maintained that TIBS principal Micheal L. Parker, and applicants associated with Parker, have been the subject of serious questions concerning their conduct before the Commission, which thus raises an issue regarding the qualification of the assignee to hold a Commission license. In response to these claims, TIBS asserted that it had equipment in the transmitter building at the transmitter site, that SBH was estopped from raising minority control issues since those had been decided by the Supreme Court, and that the fact that the Commission had granted applications filed by TIBS and Parker in the past indicated that both met the Commission's basic qualifications for licensees.

Now TIBS requests immediate grant of its assignment application. Prompting this request is a provision of the Telecommunications Act of 1996, as implemented by the Commission, requiring that the licenses of stations off the air prior to February 8, 1996, will expire on February 9, 1997 should they not resume operation before that time.⁴ TIBS asserts that if the Commission grants its request and approves the assignment of WHCT-TV, it will place the station back on the air prior to February 9, 1997. Although the Commission generally defers action on the sale of a station during the pendency of that station's renewal, TIBS cites precedent which it claims stands for the proposition that the Commission will grant exceptions to the deferral policy in extraordinary situations such as those involving bankruptcy,⁵ or where grant of

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the sale will ensure continued operation of a station during the pendency of a hearing proceeding." TIBS also argues that the outstanding SBH petition to deny the assignment does not preclude immediate grant of that application, because the Trustee has more than a bare license to assign since it has the right to lease the transmitter site, and because the "utterly meritless" allegations concerning Astroline and Parker can be raised during the comparative renewal proceeding.

In regards to the bare license issue, SBH responds that TIBS gained the right to lease the transmitter site *after* the filing of the assignment application, and that the lease agreement merely grants it the right to space on a transmitter tower. SBH further notes that the lessor sold the transmitter site in December, 1995.⁷ Additionally, SBH argues that the precedent cited by TIBS does not support grant of an exception to the deferral policy in a situation such as the one here, where a petition raising serious character issues has been filed against the assignment, and where a competing application remains pending against a renewal application. Grant of the assignment cannot occur, maintains SBH, because Commission policy requires that it first examine the qualifications of both assignor and assignee, and substantial questions of material fact have been raised regarding the qualifications of both Astroline and Parker. SBH states that it has new documentation supporting its claim about Astroline. With respect to Parker, SBH notes that although applications with which he has been associated have been granted, in those applications he lacked candor concerning the nature of his past problems with the Commission, which included findings that he had been central to applications found to have attempted fraud on the Commission.⁸

TIBS has provided no basis for us to grant its request. Contrary to its assertions, precedent does not support an exception to our deferral policy under the facts of this case. In *Stockholders of CBS Inc.*, we granted the transfer of CBS to Westinghouse despite the pendency of the license renewal of one of the stations involved in that transaction, as well as the existence of a competing applicant who raised basic qualifications issues against the transferor. 11 FCC Rcd 3733, 3748 (1995). Unlike the instant case, however, that case involved special circumstances in that deferring the transfer pending the comparative hearing would compel delay of a merger involving 31 broadcast facilities.⁹ Finally, and most critically, in that case the

⁷ See *Mid-Ohio Communications, Inc.*, 90 FCC 2d 114 (1982).

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Commission was able to address and resolve all of the outstanding basic qualifications issues raised in the competing applicant's petition to deny. Thus, we indicated that "where the pendency of a transfer application overlaps with the renewal period of one of the stations involved in a multiple-station transfer, we shall employ [this procedure] so long as there remain no basic qualifications issues against the transferor and transferee that cannot be resolved in acting on the transfer" 11 FCC Rcd at 3750.

Petitioner has raised serious basic qualifications issues against the parties involved with this application, and has presented a plethora of documentation in support of these allegations. SBH claims that although Astroline represented that it qualified as a minority-controlled entity, control of the company actually rested with its non-minority principals, in contravention of the minority distress sale policy, and provides documentation to support these claims, including copies of reports by Astroline to the Internal Revenue Service indicating that the supposed controlling minority principal actually owned less than 1% of the company in 1985, 1986 and 1987.¹¹ Serious character questions also remain regarding the assignee, Parker/TIBS. For example, in one instance an administrative law judge disqualified an applicant in a comparative hearing for a new television station after finding Parker to be an undisclosed principal in that applicant. See *Religious Broadcasting Network*, 2 FCC Rcd 6561, 6566-67 (I.D. 1987). The Review Board upheld the disqualification, characterizing the application as a "travesty and a hoax." 3 FCC Rcd 4085, 4090 (Rev. Bd. 1988), and the applicant as a "transpicuous sham" which had "attempted fraud" upon the Commission. *Id.* at 4091.

Moreover, although *the assignee* presented us with the January 1997 contracts between it and the transmitter site lessor's successor, giving it the right to use space on a transmission tower, and conveying to it the television transmission antenna, none of the parties to the application have refuted the allegation that *the assignor* held nothing more than a bare license at the time it filed the instant assignment application in 1993. Nor has the Trustee provided an inventory of its assets sufficient to demonstrate that it possesses the technical ability to operate WHCT-TV. Indeed, except for periodically filing requests for extension of time to remain dark, since 1993 the Trustee has remained completely silent regarding the fate of WHCT-TV and, to our knowledge, has never attempted to return the station to the air, despite the fact that the station's license will expire in February, 1997 should he not do so. Under Section 309 of the Communications Act, 47 U.S.C. §309(d)(2)-(e), if a substantial and material question of fact is presented to the Commission, the application shall be designated for hearing. In this instance, we believe that the numerous allegations against the parties involved in this assignment raise substantial and material questions of fact which cannot be resolved in acting on the assignment without a hearing, as requested by TIBS.

including trustee or conservator).

¹¹ The fact that the case went to the Supreme Court in order to address the constitutionality of the minority distress sale policy, does not prevent the Commission from investigating allegations concerning the veracity of Astroline's representations regarding its compliance with the minority-controlled entity criteria.

On January 21, 1997, SBH filed a response which alleged, *inter alia*, that a prohibited *ex parte* communication took place between a member of the Mass Media Bureau staff and the Trustee. A copy of the response was served on the Managing Director who has referred this matter to the Commission for evaluation in connection with the pleading of which it is a party. In its response, however, SBH has provided no evidence in support of that allegation. To the extent that such evidence may exist, it should be submitted to the Office of the Managing Director. See 47 C.F.R. §1.1214.

Finally, we note that our decision today will not adversely affect the viewing public in the Hartford area since WHCT-TV has not provided service for over five years. Nor does our action prevent the Trustee from taking measures to resume service on WHCT-TV prior to February 9, 1997. Consequently, having considered all the materials before us in this matter, the request for emergency relief, filed by Two If By Sea IS DENIED.

This letter was adopted by the Commission on January 30, 1997.

BY DIRECTION OF THE COMMISSION

William F. Caton
Acting Secretary



Federal Communications Commission
Washington, D.C. 20554

MAY 22 1997

CORRECTED

Alan C. Campbell, Esq.
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Avenue N.W.
Suite 200
Washington, D.C. 20036-3101

Re: WHRC(TV), Norwell, MA
FCC File No. BALCT-961007IA

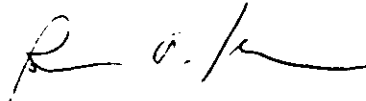
Dear Mr. Campbell:

This letter is in reference to the application for consent to assign the license of station WHRC(TV), Norwell, Massachusetts, from Massachusetts Redevelopment Limited Liability Company ("MRLLC") to Channel 46 of Boston, Inc. ("Channel 46").

Michael L. Parker is the majority member of MRLLC and is also the major principal in Two If By Sea Broadcasting Corporation ("TIBS"). TIBS is the proposed assignee of WHCT-TV, Hartford Connecticut. In 1993, Shurberg Broadcasting of Hartford, Inc. ("Shurberg") filed a petition to deny the Hartford assignment application alleging, *inter alia*, that Parker misrepresented facts and lacked candor in connection with various Commission filings over a number of years. In a By Direction Letter to *Howard Topel and Harry F. Cole*, FCC 97-25, dated January 30, 1997, the Commission determined that there were substantial questions of material fact with respect to Parker's qualifications to be the licensee of the Hartford facility. *See also Memorandum and Opinion and Order & Hearing Designation Order*, ("HDO"), MM Docket 97-128, FCC 97-146, released April 28, 1997. Since the HDO designated for hearing the renewal application of the proposed assignor, specification of issues with respect to TIBS' qualifications was not necessary at that time. HDO at n. 1. Here, no allegations have been raised by any party in connection with the assignment of station WHRC(TV) and the misconduct alleged in the Hartford proceeding does not appear to have involved the day-to-day operation of the Norwell station. *See Straus Communications Inc.*, 64 RR 2d 556 (1987) citing *Grayson Enterprises, Inc.*, 47 RR 2d 1515 (1980), *modified* 53 RR 2d 126 (1983). Further, neither the HDO nor the Commission's By Direction Letter limited the transferability of any stations commonly held by Parker. *See James S. Rivers*, 48 FR 8585, 8586 (March 1, 1983). *See also Character Qualifications*, 102 FCC 2d 1179, 1223-1225 (1985), *recon. denied*, 1 FCC Rcd 421 (1986). Thus, based on the circumstances of this case, we do not find that the outstanding matter relating to Mr. Parker is an impediment to a grant of the subject license assignment application. This action is without prejudice to whatever ultimate resolution of Shurberg's allegations may be called for in connection with the proposed assignment of WHCT-TV.

Accordingly, having found the assignee fully qualified to become a Commission licensee, the application to assign the license of station WHRC(TV) from Massachusetts Redevelopment Limited Liability Company to Channel 46 of Boston, Inc. (BALCT-9610071A) IS GRANTED.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. A. Kreisman', with a stylized flourish at the end.

Barbara A. Kreisman
Chief Video Services Division
Mass Media Bureau

cc: Howard A. Topel, Esq.

EXHIBIT 2

LAW OFFICES

MULLIN, RHYNE AND TOPEL
PROFESSIONAL CORPORATION

1225 CONNECTICUT AVENUE, NW - SUITE 300
WASHINGTON, D.C. 20036-2604

(202) 659-4700 TELECOPIER (202) 872-0604

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MAR 11 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

March 11, 1997

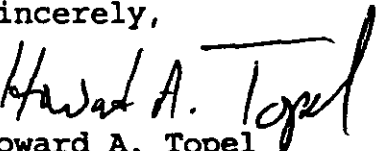
Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.--Room 222
Washington, D.C. 20554

Re: Reading Broadcasting, Inc.
WTVE-TV, Reading, Pennsylvania
File No. BRCT-940407KF

Dear Mr. Caton:

Enclosed in triplicate with respect to the above-referenced application is a copy of a letter from the FCC. A Petition for Reconsideration was filed on March 3, 1997, and is pending. Please call the undersigned counsel for Reading Broadcasting, Inc., if you have any questions.

Sincerely,


Howard A. Topel

HAT/jt
Enclosure

cc: Harry F. Cole, Esq.--w/encl.

Before the
Federal Communications Commission
Washington, D.C. 20554

LETTER

Released: January 30, 1997

Two If By Sea Broadcasting Corporation
c/o Howard A. Topel
Mullin, Rhyne and Topel
1225 Connecticut Avenue, NW Suite 300
Washington, DC 20036-2604

Shurberg Broadcasting of Hartford
c/o Harry F. Cole
Bechtel & Cole
1901 L Street, NW Suite 250
Washington, DC 20036

Gentlemen:

This refers to the December 12, 1996 letter filed by Two If By Sea Broadcasting Corporation (TIBS) requesting emergency relief. Specifically, TIBS requests that the Commission immediately grant its application for consent to the assignment of license of WHCT-TV, Channel 18, Hartford, Connecticut from Martin W. Hoffman, Trustee-in-Bankruptcy (Trustee) to TIBS. File No. BALCT-930922KE.

By way of background, in 1980 the Commission designated for hearing the application of Faith Center, Inc., (FCI) for renewal of the license of WHCT-TV. *See Faith Center, Inc.*, 83 FCC 2d 401 (1980). FCI responded by filing a petition for special relief seeking permission to transfer its license pursuant to the Commission's minority distress sale policy,¹ which the Commission granted. *See Faith Center, Inc.*, 88 FCC 2d 788 (1981). In December, 1983, while FCI attempted to effectuate a transfer of WHCT-TV, Shurberg Broadcasting of Hartford, Inc., (SBH) filed a competing application against the station's still pending renewal. File No. BPCT-831202KF. Nevertheless, in December, 1984, the Commission granted the assignment of WHCT-TV to Astroline Communications Company Limited Partnership (Astroline). *See Faith Center, Inc.*, 99

¹ Under this policy, a broadcast licensee whose license had been designated for a hearing could sell its station, after designation for hearing but prior to commencement of the hearing, to a minority-controlled entity at 75% or less of the station's fair market value. *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

FCC 2d 1164 (1984).² In February, 1991 the Commission reinstated the SBH competing application against Astroline's license renewal application.³ Meanwhile, in 1988, Astroline had filed for bankruptcy, and in May, 1991, the Commission consented to the assignment of license of WHCT-TV to the Trustee-In-Bankruptcy. File No. BALCT-910506KH. Because WHCT-TV had gone off the air, the Trustee began filing requests for consent for the station to remain dark. Finally, in September, 1993, the Trustee filed the assignment application to TIBS which is the subject of the instant request for relief.

6 SBH timely filed a Petition to Deny that application in which it argued, *inter alia*, that because the assets of WHCT-TV had either been foreclosed upon or transferred out of the licensee's estate, the Trustee holds a bare license. Petitioner further asserted that despite Astroline's representations to the Commission otherwise, it did not qualify as a minority-controlled entity for the purpose of the minority distress sale policy. Lastly, SBH maintained that TIBS principal Micheal L. Parker, and applicants associated with Parker, have been the subject of serious questions concerning their conduct before the Commission, which thus raises an issue regarding the qualification of the assignee to hold a Commission license. In response to these claims, TIBS asserted that it had equipment in the transmitter building at the transmitter site, that SBH was estopped from raising minority control issues since those had been decided by the Supreme Court, and that the fact that the Commission had granted applications filed by TIBS and Parker in the past indicated that both met the Commission's basic qualifications for licensees.

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Moreover, although *the assignee* presented us with the January 1997 contracts between it and the transmitter site lessor's successor, giving it the right to use space on a transmission tower, and conveying to it the television transmission antenna, none of the parties to the application have refuted the allegation that *the assignor* held nothing more than a bare license at the time it filed the instant assignment application in 1993. Nor has the Trustee provided an inventory of its assets sufficient to demonstrate that it possesses the technical ability to operate WHCT-TV. Indeed, except for periodically filing requests for extension of time to remain dark, since 1993 the Trustee has remained completely silent regarding the fate of WHCT-TV and, to our knowledge, has never attempted to return the station to the air, despite the fact that the station's license will expire in February, 1997 should he not do so. Under Section 309 of the Communications Act, 47 U.S.C. §309(d)(2)-(e), if a substantial and material question of fact is presented to the Commission, the application shall be designated for hearing. In this instance, we believe that the numerous allegations against the parties involved in this assignment raise substantial and material questions of fact which cannot be resolved in acting on the assignment without a hearing, as requested by TIBS.

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Finally, we note that our decision today will not adversely affect the viewing public in the Hartford area since WHCT-TV has not provided service for over five years. Nor does our action prevent the Trustee from taking measures to resume service on WHCT-TV prior to February 9, 1997. Consequently, having considered all the materials before us in this matter, the request for emergency relief, filed by Two If By Sea IS DENIED.

This letter was adopted by the Commission on January 30, 1997.

BY DIRECTION OF THE COMMISSION

William F. Caton
Acting Secretary

EXHIBIT 3

LAW OFFICES

MULLIN, RHYNE AND TOPEL
PROFESSIONAL CORPORATION

1225 CONNECTICUT AVENUE, N.W. - SUITE 300
WASHINGTON, D.C. 20036-2604

(202) 659-4700 TELECOPIER (202) 872-0604

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MAR 11 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

March 11, 1997

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.--Room 222
Washington, D.C. 20554

Re: Massachusetts Redevelopment Limited Liability Co.
WHRC(TV), Norwell, Massachusetts
File No. BALCT-961007IA

Dear Mr. Caton:

Enclosed in triplicate with respect to the above-referenced application is a copy of a letter from the FCC. A Petition for Reconsideration was filed on March 3, 1997, and is pending. Please call the undersigned counsel for Massachusetts Redevelopment Limited Liability Company if you have any questions.

Sincerely,


Howard A. Topel

HAT/jt
Enclosure

Before the
Federal Communications Commission
Washington, D.C. 20554

LETTER

Released: January 30, 1997

Two If By Sea Broadcasting Corporation
c/o Howard A. Topel
Mullin, Rhyne and Topel
1225 Connecticut Avenue, NW Suite 300
Washington, DC 20036-2604

Shurberg Broadcasting of Hartford
c/o Harry F. Cole
Bechtel & Cole
1901 L Street, NW Suite 250
Washington, DC 20036

Gentlemen:

This refers to the December 12, 1996 letter filed by Two If By Sea Broadcasting Corporation (TIBS) requesting emergency relief. Specifically, TIBS requests that the Commission immediately grant its application for consent to the assignment of license of WHCT-TV, Channel 18, Hartford, Connecticut from Martin W. Hoffman, Trustee-in-Bankruptcy (Trustee) to TIBS. File No. BALCT-930922KE.

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Now TIBS requests immediate grant of its assignment application. Prompting this request is a provision of the Telecommunications Act of 1996, as implemented by the Commission, requiring that the licenses of stations off the air prior to February 8, 1996, will expire on February 9, 1997 should they not resume operation before that time.⁴ TIBS asserts that if the Commission grants its request and approves the assignment of WHCT-TV, it will place the station back on the air prior to February 9, 1997. Although the Commission generally defers action on the sale of a station during the pendency of that station's renewal, TIBS cites precedent which it claims stands for the proposition that the Commission will grant exceptions to the deferral policy in extraordinary situations such as those involving bankruptcy,⁵ or where grant of

² SBH also filed, and the Commission rejected, objections to the distress sale policy. *Faith Center, Inc.*, 55 RR 2d 41 (Mass Med. Bur. 1984); *Faith Center, Inc.*, 54 RR 2d 1286 (1983). Ultimately the Supreme Court upheld the constitutionality of this policy. See *Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547 (1990).

³ We note that comparative proceedings generally remain frozen in the wake of *Bechtel v. FCC*, 10 F3d 875 (D.C.Cir. 1993). See *FCC Freezes Comparative Proceedings*, 9 FCC Rcd 1055 (1994); *Modification of FCC Comparative Proceedings Freeze Policy*, 9 FCC Rcd 6689 (1994).

⁴ See *Implementation of Section 403(1) of the Telecommunications Act of 1996 (Silent Station Authorizations)*, FCC 96-218 at ¶5, released May 17, 1996; see also 47 U.S.C. §312(g) (1996).

⁵ See *Stockholders of CBS Inc.*, 11 FCC Rcd 3733, 3748 (1995); *The Rex Company*, 8 FCC Rcd 3988, 3988 (1993); *Bennett Gilbert Guines*, 5 FCC Rcd 2052 (Audio Serv. Div. 1990); *Arthur A. Cirilli*, 2 FCC 2d 692,693 (1966).

the sale will ensure continued operation of a station during the pendency of a hearing proceeding." TIBS also argues that the outstanding SBH petition to deny the assignment does not preclude immediate grant of that application, because the Trustee has more than a bare license to assign since it has the right to lease the transmitter site, and because the "utterly meritless" allegations concerning Astroline and Parker can be raised during the comparative renewal proceeding.

In regards to the bare license issue, SBH responds that TIBS gained the right to lease the transmitter site *after* the filing of the assignment application, and that the lease agreement merely grants it the right to space on a transmitter tower. SBH further notes that the lessor sold the transmitter site in December, 1995.⁷ Additionally, SBH argues that the precedent cited by TIBS does not support grant of an exception to the deferral policy in a situation such as the one here, where a petition raising serious character issues has been filed against the assignment, and where a competing application remains pending against a renewal application. Grant of the assignment cannot occur, maintains SBH, because Commission policy requires that it first examine the qualifications of both assignor and assignee, and substantial questions of material fact have been raised regarding the qualifications of both Astroline and Parker. SBH states that it has new documentation supporting its claim about Astroline. With respect to Parker, SBH notes that although applications with which he has been associated have been granted, in those applications he lacked candor concerning the nature of his past problems with the Commission, which included findings that he had been central to applications found to have attempted fraud on the Commission.⁸

TIBS has provided no basis for us to grant its request. Contrary to its assertions, precedent does not support an exception to our deferral policy under the facts of this case. In *Stockholders of CBS Inc.*, we granted the transfer of CBS to Westinghouse despite the pendency of the license renewal of one of the stations involved in that transaction, as well as the existence of a competing applicant who raised basic qualifications issues against the transferor. 11 FCC Rcd 3733, 3748 (1995). Unlike the instant case, however, that case involved special circumstances in that deferring the transfer pending the comparative hearing would compel delay of a merger involving 31 broadcast facilities.⁹ Finally, and most critically, in that case the

⁷ See *Mid-Ohio Communications, Inc.*, 90 FCC 2d 114 (1982).

⁸ In its reply, TIBS noted that in January, 1997, it entered into two agreements with the transmitter site lessor's successor, one giving it the right to use space on a transmission tower, and another conveying to it a television transmission antenna currently mounted on that tower, for use at the site.

⁹ SBH also presents a copy of a record from the Office of the Secretary of the State of Delaware, dated December 20, 1996, declaring that TIBS "is no longer in existence and good standing under the laws of the State of Delaware" due to failure to pay its taxes.

¹⁰ *Mid-Ohio Communications, Inc.*, the other case cited by TIBS in which we granted an exception to our deferral policy involved extraordinary circumstances not present here. 90 FCC 2d 114 (assignment granted despite pending renewal where controlling interest in licensee's stock was in escrow account and not subject to exercise by anyone).

Commission was able to address and resolve all of the outstanding basic qualifications issues raised in the competing applicant's petition to deny. Thus, we indicated that "where the pendency of a transfer application overlaps with the renewal period of one of the stations involved in a multiple-station transfer, we shall employ [this procedure] so long as there remain no basic qualifications issues against the transferor and transferee that cannot be resolved in acting on the transfer" 11 FCC Rcd at 3750.

Petitioner has raised serious basic qualifications issues against the parties involved with this application, and has presented a plethora of documentation in support of these allegations. SBH claims that although Astroline represented that it qualified as a minority-controlled entity, control of the company actually rested with its non-minority principals, in contravention of the minority distress sale policy, and provides documentation to support these claims, including copies of reports by Astroline to the Internal Revenue Service indicating that the supposed controlling minority principal actually owned less than 1% of the company in 1985, 1986 and 1987.¹⁰ Serious character questions also remain regarding the assignee, Parker/TIBS. For example, in one instance an administrative law judge disqualified an applicant in a comparative hearing for a new television station after finding Parker to be an undisclosed principal in that applicant. *See Religious Broadcasting Network*, 2 FCC Rcd 6561, 6566-67 (I.D. 1987). The Review Board upheld the disqualification, characterizing the application as a "travesty and a hoax." 3 FCC Rcd 4085, 4090 (Rev. Bd. 1988), and the applicant as a "transpicious sham" which had "attempted fraud" upon the Commission. *Id.* at 4091.

Moreover, although *the assignee* presented us with the January 1997 contracts between it and the transmitter site lessor's successor, giving it the right to use space on a transmission tower, and conveying to it the television transmission antenna, none of the parties to the application have refuted the allegation that *the assignor* held nothing more than a bare license at the time it filed the instant assignment application in 1993. Nor has the Trustee provided an inventory of its assets sufficient to demonstrate that it possesses the technical ability to operate WHCT-TV. Indeed, except for periodically filing requests for extension of time to remain dark, since 1993 the Trustee has remained completely silent regarding the fate of WHCT-TV and, to our knowledge, has never attempted to return the station to the air, despite the fact that the station's license will expire in February, 1997 should he not do so. Under Section 309 of the Communications Act, 47 U.S.C. §309(d)(2)-(e), if a substantial and material question of fact is presented to the Commission, the application shall be designated for hearing. In this instance, we believe that the numerous allegations against the parties involved in this assignment raise substantial and material questions of fact which cannot be resolved in acting on the assignment without a hearing, as requested by TIBS.

including trustee or conservator).

¹⁰ The fact that the case went to the Supreme Court in order to address the constitutionality of the minority distress sale policy, does not prevent the Commission from investigating allegations concerning the veracity of Astroline's representations regarding its compliance with the minority-controlled entity criteria.

On January 21, 1997, SBH filed a response which alleged, *inter alia*, that a prohibited *ex parte* communication took place between a member of the Mass Media Bureau staff and the Trustee. A copy of the response was served on the Managing Director who has referred this matter to the Commission for evaluation in connection with the pleading of which it is a party. In its response, however, SBH has provided no evidence in support of that allegation. To the extent that such evidence may exist, it should be submitted to the Office of the Managing Director. See 47 C.F.R. §1.1214.

Finally, we note that our decision today will not adversely affect the viewing public in the Hartford area since WHCT-TV has not provided service for over five years. Nor does our action prevent the Trustee from taking measures to resume service on WHCT-TV prior to February 9, 1997. Consequently, having considered all the materials before us in this matter, the request for emergency relief, filed by Two If By Sea IS DENIED.

This letter was adopted by the Commission on January 30, 1997.

BY DIRECTION OF THE COMMISSION

William F. Caton
Acting Secretary

EXHIBIT 4

TIME ENTRIES IN 1201.0004 FOR JWR

11/6/97	0.25	Study of issues re amending assignment application
11/10/97	0.75	Draft amendment re effect of January 30 letter on transferability of licenses
11/11/97	0.50	Revise amendment
11/14/97	0.25	Study of issues re amending assignment application; letter to M. Parker re amendment
11/17/97	0.25	Revise letter to M. Parker re assignment application and amendment

TIME ENTRIES IN 1201.0005 FOR JWR

11/10/97	0.75	Draft amendment re effect of January 30 letter on transferability of licenses; review application re reference to January 30 letter
11/11/97	0.50	Revise amendment
11/14/97	0.25	Study of issues re amending assignment application; letter to M. Parker

EXHIBIT F

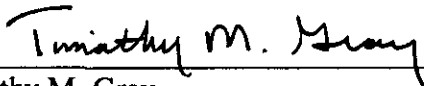
DECLARATION

Timothy M. Gray hereby declares as follows:

1. I am a legal assistant at the law firm of Fleischman and Walsh, L.L.P.

2. I have reviewed the publicly available records of the Federal Communications Commission ("FCC") for files relating to the construction permit of Mt. Baker Broadcasting Co., Inc. for a new television station in Anacortes, Washington. My review indicated that no such files are available in the FCC's public reference room or from the archives of retired FCC files. Upon inquiry to Lisa Smith, Staff Attorney of the FCC's Video Services Division, I was told that the files in question no longer exist.

3. I declare under penalty of perjury that the foregoing is true and correct. Executed on August 11, 1999.

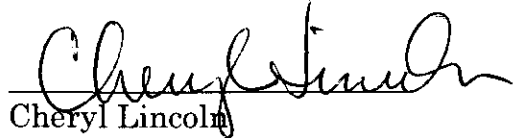


Timothy M. Gray

Declaration of Cheryl Lincoln

Cheryl Lincoln hereby declares as follows:

1. I am a legal assistant at the law firm of Holland & Knight LLP.
2. I have reviewed the publicly available records of the Federal Communications Commission ("FCC") for the following applications, with the following results:
 - a. Application of Michael L. Parker for construction permit for low power television station in Los Angeles, California (BPTTL-891208ZI). FCC database (see attachment) shows that this application was dismissed on April 2, 1993. A copy of the application is not available from the FCC's files.
 - b. Application for consent to assignment of license for international broadcast station KCBI (now KAIJ) to Two If By Sea Broadcasting Corp. (BALIB-9208100M). A copy of the original application is available from the FCC's files, but not any amendment.
3. I declare under penalty of perjury that the foregoing is true and correct. Executed on August 11, 1999.


Cheryl Lincoln